

REMARKS

Claims 2-5 and 7-18 have been canceled. Amended claims 1 and 6 are in this application.

Claims 1 and 6 were objected to for usage of the functional language, "operable to".

Claims 1 and 6 have been amended herein so as to change "operable to" to "programmed to," as suggested by the Examiner. Accordingly, it is respectfully requested that the above objection be withdrawn.

Claims 1 and 6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Application No. 2002/0157002 ("Messengers") in view of Official Notice.

Independent claims 1 and 6 have been amended herein. As a result and as an example, amended claim 1 now recites in part the following:

"each of the at least two electronic devices including:

means for causing information to be supplied to the respective electronic device which identifies each electronic device currently available to receive the selected software by transfer if a request to do so is made; and

third requesting means for requesting that the server transfer the selected software from the respective electronic device to another of the at least two electronic devices which has the same user associated therewith as that of the respective electronic device and which is selected by use of the information which identifies said each electronic device currently available to receive the selected software by transfer; and

the server including:

transferring means for, upon a request by the third requesting means of the respective electronic device to transfer the selected

software to the another electronic device, providing the information which identifies said each electronic device currently available to receive the selected software by transfer to the respective electronic device to enable a selection, deleting the software identification information for the selected software and the user identification information and the device identification information registered in association with the software identification information for the respective electronic device, and registering the software identification information for the selected software in association with the device identification information for the another electronic device and the user identification information, such that the respective electronic device is prohibited from purchasing software and such that the another electronic device is allowed to run the selected software." (Emphasis added.)

It is respectfully requested that the above 103 rejection of claim 1 be withdrawn for at least the following reasons.

First, and as even acknowledged by the Examiner, Messerges does not disclose "means for causing information" and third requesting means for requesting that the server transfer the selected software from the respective electronic device to another of the at least two electronic devices "which is selected by use of the information which identifies said each electronic device currently available to receive the selected software by transfer" as recited in claim 1. Additionally, and as a result, it is also submitted that Messerges does not disclose "transferring means for . . . providing the information which identifies said each electronic device currently available to receive the selected software by transfer to the respective electronic device to enable a selection", as now recited in claim 1.

Second, and as best understood, the Examiner appears to take Official Notice with regard to the "means for causing information" and third requesting means for requesting that the server transfer the selected software from the respective electronic device to another of the at least two electronic devices "which is selected by use of the information which identifies said each electronic device currently available to receive the selected software by transfer" as recited in claim 1, and that it would have been obvious "to include in Messerges" such features. In response thereto, it is respectfully submitted that it would not have been obvious to include these features in the system of Messerges as suggested by the Examiner. More specifically, and in support thereof, reference is made to paragraph 0038 of Messerges which recites the following:

"[0038] The encrypted content can be openly stored on any host PC or server of the system. Any portable device can request a piece of this content. The host merely transfers the content to the requesting device without performing a check-out operation. The security of the content is ensured because it is cryptographically tied to a specific domain. Widespread piracy of fraudulently copied music is prevented because the domain authority will only permit a limited number of devices into each domain. The digital rights management system in the user device prevents tampering, so hackers will not be able to gain illegitimate access to content." (Emphasis added.)

Accordingly and as indicated in paragraph 0038 of Messerges, any portable device (such as a PC or server) can simply request content or a piece thereof, whereupon the host merely transfers such requested content without performing any check-out operation.

Therefore, since Messerges specifically indicates that any portable device (such as a PC or server) can request the content or a piece thereof and, in response to such request, the host merely transfers such requested content, it is respectfully submitted that it would not have been obvious to add the above-identified features of claim 1 to the system of Messerges. That is, since any portable device of Messerges merely needs to request the content, there would be no need for the system of Messerges to provide "information which identifies each electronic device currently available to receive the selected software by transfer if a request to do so is made" as in claim 1.

For reasons similar to or somewhat similar to those previously described with regard to claim 1, it is also respectfully requested that the above 103 rejection of claim 1 be withdrawn.

As it is believed that all of the objections and rejections set forth in the Official Action have been overcome, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicants' attorney at (908) 654-5000 in order to overcome any additional objections and/or rejections which the Examiner might have.

If there are any charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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